

DETAILED ACTION

Response to Amendment

1. This Office Action is responsive to amendment received on 7/22/2008.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 5, 6, 7, 12, 16-18 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. US 6,714,512. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Claim 1. Applicant amended preamble by adding a "machine-readable medium comprising instructions, to carry out, when executed, the method steps of

referenced Patent claim 1. Although the conflicting claims are not identical but application claim is NOT patentably distinct from the Patent claim 1. It would have been readily obvious to one of ordinary skill in the art, at the time of application, to realize the same invention as already claimed although there is a minor and patentably indistinct difference in the preamble of the claim.

Claims 5, 6, 7, 12, 16, 17 and 18 are patentably indistinct over Patent claims 2, 3, 4, 5, 6, 7 and 8, respectively, for the same reasons described above. Minor differences are merely cosmetic and made to suite more appropriate to claim language.

Claim 12 has added broad limitation of "*a memory coupled to the processor for storing data...*". However, it would have been obvious to one of ordinary skill in the art, to utilize any type of memory, RAM, ROM, etc., known and old at the time of invention.

As to claims 16-17, Applicant added, "the Apparatus comprising: A processor *configured to ...*". Again, 'configured to' is very broad term. One of ordinary skill in the art, can incorporate any processor that *can be configured* to carry out the method steps claimed herein. The processor may have *specific means/elements* to carry out *specific* method steps so that the claimed processor can be distinguished from other processors known at the time of invention.

3. Claims 2, 3 and 4 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2 and 3, respectively, of U.S. Patent No. US 6,351,460. Although the conflicting claims are not identical, they are not patentably distinct from each other for the same reasons as discussed above.

This is an obviousness type double patenting rejection.

Claims 8, 9, 10 and 11 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 4, 5, 6 and 7, respectively, of U.S. Patent No. US 6,351,460. Although the conflicting claims are not identical, they are not patentably distinct from each other for the same reasons as discussed above.

This is an obviousness type double patenting rejection.

Claims 13, 14 and 15 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 8, 9 and 10, respectively, of U.S. Patent No. US 6,351,460. Although the conflicting claims are not identical, they are not patentably distinct from each other for the same reasons as discussed above.

This is an obviousness type double patenting rejection.

Claims 19, 20, 21 and 22 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 11, 12, 13 and 14, respectively, of U.S. Patent No. US 6,351,460. Although the conflicting claims are not identical, they are not patentably distinct from each other for the same reasons as discussed above.

This is an obviousness type double patenting rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The Disclosure fails to provide support for "a machine-readable medium" as specifically claimed herein. Applicant is requested to indicate specific paragraphs and elements that read on "a machine-readable medium comprising instructions ..." in the Disclosure.

5. All the claims will be subject to further search and examination based on prior art available.
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gilhousen et al. (US 5,056,109); Gilhousen et al. (US 4,901,307); Gilhousen et al. (US 5,101,501); Blakeney et al. (US 5,267,261).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AFSAR M. QURESHI whose telephone number is (571)272-3178. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (571) 272 7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Afsar M Qureshi/
Primary Examiner
Art Unit 2416

10/21/2008